

232233



BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific Railroad Company )
Petition for Declaratory Order )

Docket No. FD 35504

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SUPPLEMENT TO JULY 12, 2012 COMMENTS

1. Comes now James Riffin ("Riffin"), who herewith files this Supplement to his July 12, 2012 Comments in the above entitled proceeding:

2. In his July 12, 2012 Comments, Riffin did not elaborate on how to implement his proposed Surcharge on Hazardous Materials to Fund Hazardous Release Claims. To get talks started, Riffin would suggest the following:

- 3. Determine total funding goal. UP has argued the potential liability is about \$90 billion.
4. Determine funding goals for Years 1, 5, 10, etc.
5. Determine total production of hazardous materials, by class. Each class to be based on potential claims resulting from unauthorized release. (Degree of toxicity.)
6. Determine allocation of surcharge to each class necessary to raise funding goals.
7. Determine levels at which indemnification is to occur, by Class of railroad. For example:

AT FAULT (Railroad found to be at least 20% negligent).

Claims in excess of below amounts to be paid from Surcharge Funds:

Table with 2 columns: Railroad Class and Claims in excess of amount. Rows include Class I, II, and III railroads.

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NO FAULT (Release primarily caused by 3<sup>rd</sup> party. Railroad less than 20% at fault.)

Claims in excess of below amounts to be paid from Surcharge Funds:

- Class I railroad: Claims in excess of \$ 50 thousand.
- Class II railroad: Claims in excess of \$10 thousand.
- Class III railroad: Claims in excess of \$ 2 thousand.

8. Who is to administer surcharge funds? Recommend creating a non-profit organization.

9. How are surcharge funds to be invested? Be mindful, that when a claim is made on the Fund, large sums of money will have to be generated. Selling large quantities of stock, can cause the stock market to fall. Withdrawing large sums of money from a bank, can cause the bank to fail. Selling bonds can cause the bond market to collapse. Funds should be sufficiently diversified to permit retrieval of funds without causing major financial market impacts. Funds should primarily be invested in low-risk investments. Maximum return is not the goal. Liquidity and certainty of return of principle should be primary goal, along with minimal administrative costs. Limit executive compensation.

10. Example: Total funding goal: \$80 billion within 20 years.

Year 1 goal: \$ 5 billion. Year 5 goal: \$25 billion. Year 10 goal: \$ 40 billion.

Allocation by class: TIH: 4 x base rate Highly Toxic, non-gas: 3 x base rate.

Highly flammable: 2 x base rate. Other hazardous: base rate.

	Tons / year	Base rate	Multiplier	Surcharge / year
TIH:	10 mil	\$25 / ton	4 x	\$ 1.0 bil.
Highly toxic:	10 mil	\$25 / ton	3 x	\$ 0.75 bil.
Flammable:	50 mil	\$25 / ton	2 x	\$ 1.25 bil.
Other:	80 mil	\$25 / ton	1 x	<u>\$ 2.0 bil.</u>
				\$ 5 billion

11. In the above example, the base rate of \$25 / ton equates to 1.25 cents per pound. For anhydrous ammonia, a TIH product, the rate would be 5 cents per pound. At 150 lb application rate / acre, that increases the fertilizer cost by \$7.50 / acre, or a loss of 1.25 bushels of corn per acre.

12. Since the surcharge fund is assuming the liability associated with transporting hazardous products, railroads would no longer be justified in charging substantially higher tariffs to transport hazardous materials. (The higher tariffs are justified by the higher claims liability. If a railroad's claims liability is substantially lowered, its costs are substantially lowered. UP would no longer need to carry \$1.2 billion in insurance. \$200 - 500 million may be adequate.) Lowered tariff rates would offset some of the surcharge. Consequently, the net surcharge may only be a nominal amount, say two cents per pound for TIH products, and only 1/4 cent per pound for non-flammable, non-toxic hazardous products.

13. The surcharge would be assessed at the manufacturing level, paid by the manufacturer (or importer), added to the cost of the product, and ultimately paid by the end-user. A line-item notation for the surcharge could be added to the end-user's bill, to clearly advise the end-user of the surcharge.

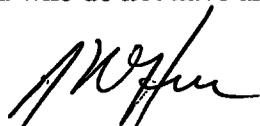
Respectfully,



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### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12<sup>th</sup> Day of April, 2012, a copy of the foregoing Supplement was e-mailed to all Parties of Record who have an e-mail address listed, and was mailed via first class mail to those Parties of Record who do not have an e-mail address listed.



James Riffin